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PREPARATORY COMMISSION FOR THE INTERNATIONAL SEABED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4

PROVISIONAL REPORT OF SPECIAL COMMISSION 4

(DRAFT REPORT OF THE PREPARATORY COMMISSION UNDER PARAGRAPH 10 OF RESOLUTION I CONTAINING RECOMMENDATIONS FOR SUBMISSION TO THE MEETING OF STATES PARTIES TO BE CONVENED IN ACCORDANCE WITH ANNEX VI, ARTICLE 4, OF THE CONVENTION, REGARDING PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA)

Addendum*

RELATIONSHIP ARRANGEMENTS BETWEEN THE UNITED NATIONS AND THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Final Draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea)

(Working paper by the Secretariat)

Explanatory Note

The draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.9), as well as the arrangements regarding the United Nations common system of salaries and benefits and participation in the United Nations Joint Staff Pension Fund (LOS/PCN/SCN.4/WP.9/Add.1) were reviewed by Special Commission 4 during the eighth session (5-30 March 1990) and the summer meeting of the Preparatory Commission (13-31 August 1990). The discussions are reflected in the Chairman's summary (LOS/PCN/SCN.4/L.15) and form the basis for the present revised draft.

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* This working paper also constitutes addendum 4 to document LOS/PCN/SCN.4/WP.15, which was not previously issued as a separate document.

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FINAL DRAFT AGREEMENT ON COOPERATION AND RELATIONSHIPS BETWEEN THE UNITED NATIONS AND THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Preamble

The United Nations and the International Tribunal for the Law of the Sea,

Bearing in mind that the General Assembly of the United Nations in its resolution 3067 (XXVIII) of 16 November 1973 decided, inter alia, to convene the Third United Nations Conference on the Law of the Sea, which adopted the 1982 United Nations Convention on the Law of the Sea, hereinafter referred to as the Convention, which in accordance with article 287, paragraph 1 (a), and annex VI thereof established the International Tribunal for the Law of the Sea with a central role in the settlement of disputes thereunder,

Noting the role of the United Nations in the peaceful settlement of international disputes and also the responsibilities entrusted to the Secretary-General under article 319 and other provisions of the Convention,

Noting further the functional interrelationships established under the Convention between the United Nations, its principal organs and the competent specialized agencies, and on the other hand the International Tribunal for the Law of the Sea,

Desiring to make provision for an effective system of relationship to facilitate the discharge of the respective responsibilities of the United Nations and the International Tribunal for the Law of the Sea, particularly in the field of the law of the sea,

Taking into account, for this purpose, the provisions of the Charter of the United Nations, the Convention and the Statute of the International Tribunal for the Law of the Sea, annex VI thereto,

Have agreed as follows:

Article 1

Legal relationship and mutual recognition

1. The United Nations and the International Tribunal for the Law of the Sea (hereinafter referred to as the International Tribunal) respect each other's status and mandate, and on the basis of this Agreement and in conformity with the Convention and the Statute, the International Tribunal, as an independent judicial body, hereby establishes working relations with the United Nations.

2. The International Tribunal recognizes the responsibilities of the United Nations in accordance with the Charter in the fields of international peace and security and the resolution of international disputes.

Article 2 (3)*

Cooperation and coordination

1. The United Nations and the International Tribunal, with a view to facilitating the effective attainment of their objectives and the coordination of their activities, will:

(a) Consult each other when appropriate and will cooperate on matters of mutual concern; and

(b) Pursue initiatives to avoid overlapping and duplication of activities as far as possible.

Article 3 (4)

Relations with the International Court of Justice

1. The International Tribunal agrees to furnish any information which may be requested by the International Court of Justice pursuant to Article 34, paragraph 2, of the Statute of the Court and the United Nations agrees to furnish any information requested of it or of the International Court of Justice by the International Tribunal pursuant to article 79 of the Rules of the Tribunal.**

2. The prompt and regular exchange of information concerning applications submitted in accordance with article 292 of the Convention shall be assured between the International Court of Justice and the International Tribunal.

Article 4 (5)

Relations with the Security Council

1. The International Tribunal and the Security Council agree, when appropriate, to communicate information which may be relevant to their activities and to facilitate the performance of their functions.

2. In providing for such cooperation due regard shall be paid to the provisions of article 298, paragraph 1 (c), of the Convention.

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* The numbers in parentheses indicate the place of the article in document WP.9.

** The reference is to the Draft Rules of the Tribunal contained in document LOS/PCN/SCN.4/WP.2/Rev.1.

Article 5 (6)

Reciprocal representation

1. The Secretary-General of the United Nations or his representative may be invited to attend and to participate as appropriate, without a vote, in meetings of the Members of the International Tribunal and of its committees on matters of common interest, other than those related to the judicial functions of the International Tribunal.

2. The President of the International Tribunal or his representative may be invited to attend and to participate as appropriate, without a vote, in plenary meetings of the organs of the United Nations, and their subsidiary bodies when matters of interest to the International Tribunal are under discussion.

3. Written statements may be presented by the United Nations for distribution by the Registry to the members of the International Tribunal. Written statements may be presented to the United Nations for distribution by the Secretariat to all members of the appropriate organs of the United Nations.

Article 6 (7)

Exchange of information and documents

1. The United Nations and the International Tribunal shall, to the fullest extent practicable, and subject to paragraph 2, arrange for the regular exchange of current information and publications of mutual interest.

2. Nothing in this Agreement shall be construed to require either the United Nations or the International Tribunal to furnish any information the furnishing of which would, in its judgement, constitute a violation of the confidentiality of confidential information and proprietary material.

3. The International Tribunal shall:

(a) Periodically transmit to the United Nations information concerning developments relating to the Convention, including information regarding the jurisprudence of the International Tribunal; and

(b) Transmit to the United Nations, as appropriate, information and documentation relating to the pleadings, oral proceedings, judgements, orders, and other communications and documentation relating to applications in accordance with articles 290 and 292 of the Convention, including information concerning applications submitted to the International Tribunal for the purposes of the International Court of Justice, as referred to in article 3, paragraph 2, of this Agreement.

4. The United Nations shall:

(a) Periodically transmit to the International Tribunal information concerning developments relating to the Convention; and

(b) Transmit to the International Tribunal information and communications received by it pursuant to the designation of the Secretary-General as the depositary of the Convention;

(c) Transmit to the International Tribunal information concerning applications submitted to the International Court of Justice under article 292 of the Convention.

5. The United Nations and the International Tribunal agree to strive for maximum cooperation, with a view to eliminating all undesirable duplication between them and promoting the most efficient use of their technical personnel in the collection, analysis, publication and dissemination of statistical information. They agree to combine their efforts to secure the greatest possible usefulness and utilization of statistical information and to minimize the burdens placed upon national Governments and other organizations from which such information may be collected.

Article 7 (8)

Reports to the United Nations

The International Tribunal shall, when appropriate, keep the United Nations informed of its activities by submitting special reports:

(a) To regular sessions of the General Assembly;

(b) To the Security Council, and notify the Council whenever, in connection with the activities of the International Tribunal, questions within the competence of the Security Council, in particular relating to the application of article 298, paragraph 1 (c), arise.

Article 8 (9)

Personnel arrangements*

1. The United Nations and the International Tribunal agree to develop as far as is practicable common personnel standards, methods and arrangements designed to avoid serious discrepancies in terms and conditions of employment, to avoid competition in recruitment of personnel, and to facilitate any mutually desirable interchange of personnel in order to obtain the maximum benefit from their services.

2. The United Nations and the International Tribunal agree to cooperate to the fullest extent possible in achieving these ends, and in particular they agree:

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* See also LOS/PCN/SCN.4/WP.9/Add.1.

(a) To cooperate with the International Civil Service Commission, established for the purpose of contributing to the improvement of recruitment and related phases of personnel administration in all of the international organizations;

(b) To consult together concerning other matters relating to the employment of their officers and staff, including conditions of service, duration of appointments, classification, salary scales and allowances, retirement and pension rights and staff regulations and rules, with a view to securing as much uniformity in these matters as shall be found practicable;

(c) To cooperate in the interchange of personnel, when desirable, on a temporary or permanent basis, making due provision for the retention of seniority and pension rights;

(d) To cooperate in the establishment and operation of suitable machinery for the settlement of disputes arising in connection with the employment of personnel and related matters.

3. Accordingly, the United Nations and the International Tribunal undertake to consult together, from time to time concerning these matters, particularly the most efficient and harmonized use of facilities, staff and services and appropriate methods of avoiding the establishment and operation of competitive or overlapping facilities and services with a view to securing as much uniformity in these matters as possible.

4. The United Nations and the International Tribunal shall consult to establish the most equitable manner in which any special services or assistance furnished, on request, by the International Tribunal to the United Nations or by the United Nations to the International Tribunal shall be financed.

Article 9 (10)

Agenda items

The International Tribunal may propose items for consideration by the United Nations. In such cases, the International Tribunal shall notify the Secretary-General of the United Nations of the item or items concerned and the Secretary-General, in accordance with his authority, shall bring such item or items to the attention of the General Assembly or such other organ, as appropriate.

Article 10 (13)

Administrative cooperation

The United Nations and the International Tribunal recognize the desirability of cooperation in administrative matters of mutual interest. They shall consult to explore the possibility of continuing or establishing common facilities or services in specific areas, including the possibility of one organization providing such facilities or services to one or several other

organizations, and establish the most equitable manner in which such facilities or services shall be financed.

Article 11 (14)

Laissez-passer

Members of the International Tribunal, the Registrar and other officials of the International Tribunal and the Registry shall be entitled to use the laissez-passer of the United Nations, in accordance with such terms as may be concluded between the Secretary-General of the United Nations and the Registrar of the International Tribunal, and such special arrangements as may be approved in the context of the Convention on the Privileges and Immunities of the United Nations.

Article 12 (15)

Budgetary and financial matters

1. The International Tribunal recognizes the desirability of establishing close budgetary and financial relationships with the United Nations in order that the administrative operations of the United Nations and the International Tribunal shall be carried out in the most efficient and economical manner possible, and that the maximum measure of coordination and uniformity with respect to these operations shall be secured.

2. The United Nations and the International Tribunal agree to cooperate to the fullest extent possible in achieving these ends.

3. The International Tribunal agrees to conform, as far as may be practicable and appropriate, to standard practices and forms recommended by the United Nations.

4. The following arrangements shall govern budgetary and financial relationships between the United Nations and the International Tribunal:

(a) The Registrar of the International Tribunal shall consult with the Secretary-General of the United Nations with a view to achieving consistency in the presentation of the budget of the International Tribunal with that of the United Nations;

(b) The International Tribunal, when it deems necessary, may transmit its draft budget or budgetary estimates to the United Nations and request recommendations thereon;

(c) At the request of the International Tribunal, the United Nations may undertake the collection of contributions from States Parties to the Convention which are also Members of the United Nations in accordance with such arrangements as may be defined by a later agreement between the United Nations and the International Tribunal;

(d) The United Nations may, upon the request of the International Tribunal, provide advice on financial and fiscal questions of interest to the International Tribunal with a view to the provision of common services and the securing of uniformity in such matters.

Article 13 (16)

Financing of special services

1. In the event of either the International Tribunal or the United Nations being faced with the necessity of incurring substantial extra expense as a result of any request which the other party to the Agreement may make for special reports, studies or assistance in accordance with the provisions of this Agreement, consultations shall take place with a view to determining the most equitable manner in which such expense shall be borne.

2. Consultation between the United Nations and the International Tribunal shall similarly take place with a view to making such arrangements as may be found equitable for covering the costs of central administrative, technical or fiscal services or facilities or other special assistance provided by the United Nations.

Article 14 (17)

Liaison

1. The United Nations and the International Tribunal agree to the foregoing provisions in the belief that they will contribute to the maintenance of effective liaison between them. They affirm their intention of taking in agreement whatever measures may be necessary to this end.

2. The liaison arrangements provided for in this Agreement shall apply, as far as is appropriate, to the relations between the International Tribunal and the United Nations, including its offices away from Headquarters and regional offices.

Article 15 (18)

Implementation of the Agreement

The Secretary-General and the Registrar may enter into such supplementary arrangements for the implementation of this Agreement as may be found desirable in the light of the operating experience of the United Nations and the International Tribunal.

Article 16 (19)

Revision and review

This Agreement shall be subject to revision by agreement between the United Nations and the International Tribunal and shall be reviewed not later than three years after the Agreement has come into force.

Article 17

Amendments

This Agreement may be amended by agreement between the United Nations and the International Tribunal. Any such amendment agreed upon shall enter into force on its approval by the General Assembly of the United Nations and by the Meeting of States Parties to the Convention.

Article 18 (20)

Entry into force

This Agreement shall come into force on its approval by the General Assembly of the United Nations and the Meeting of States Parties to the Convention.